

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

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In Re: CHRISTOPHER LEE WENZEL  
Debtor.

CASE NO. 14-23218-gmh  
CHAPTER 13

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NOTICE OF MOTION OF U.S. BANK NATIONAL ASSOCIATION  
FOR RELIEF FROM AUTOMATIC STAY

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U.S. Bank National Association, by its attorneys, Kohner, Mann & Kailas, S.C., has filed papers with the Court to seek relief from the automatic stay. A copy of the Motion is attached.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

If you do not want the Court to grant relief from the automatic stay, or if you want the Court to consider your views on the motion, then **on or before 06/16/2016**, you or your attorney must:

File with the court a written response explaining your position at:

Clerk of the U.S. Bankruptcy Court  
United States Courthouse  
517 East Wisconsin Avenue, Room 126  
Milwaukee, WI 53202-4581

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above.

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Amy J. Smith, Esq.  
Attorneys for Creditor  
Kohner, Mann & Kailas, S.C.  
Washington Building  
4650 North Port Washington Road  
Milwaukee, WI 53212-1059  
Telephone: (414) 962-5110  
Facsimile: (414) 962-8725  
Email: [asmith@kmksc.com](mailto:asmith@kmksc.com)

You must also mail a copy to:

Kohner, Mann & Kailas, S.C.  
Attention: Amy J. Smith, Esq.  
Washington Building  
Barnabas Business Center  
4650 North Port Washington Road  
Milwaukee, WI 53212-1059

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Our firm is a debt collector. This is an attempt to collect a debt, and any information obtained will be used for that purpose.

Dated this 2<sup>nd</sup> day of June, 2016.

KOHNER, MANN & KAILAS, S.C.  
Attorneys for Creditor

By: /s/ Amy J. Smith  
Amy J. Smith  
Attorney No. 1095174

Post Office Address:

Washington Building  
4650 North Port Washington Road  
Milwaukee, WI 53212  
Telephone: (414) 962-5110  
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MOTION OF U.S. BANK NATIONAL ASSOCIATION  
FOR RELIEF FROM AUTOMATIC STAY

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NOW COMES U.S. Bank National Association (hereinafter "Creditor"), by its attorneys, Kohner, Mann & Kailas, S.C., and seeks an Order of the Bankruptcy Court granting Creditor relief from the automatic stay, so that Creditor may pursue foreclosure and repossession procedures for payment of the debts owed by Christopher Lee Wenzel (hereinafter "Debtor"). In support hereof, Creditor states:

JURISDICTION

1. Debtor filed for relief under Chapter 13 of the U.S. Bankruptcy Code (11 U.S.C. §101 et seq.) on 03/27/2014. Rebecca R. Garcia is the Chapter 13 Trustee.
2. This Court has jurisdiction over this proceeding under 28 U.S.C. § 1334, § 157, and the Order of Reference of the District Court; this is a core proceeding under 28 U.S.C. § 157; and venue in this Court is proper under 28 U.S.C. § 1409.
3. This Motion is brought pursuant to Bankruptcy Code § 362, and the Federal Rules of Bankruptcy Procedure 4001, 9014 and 6007.

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Amy J. Smith, Esq.  
Attorney for Creditor  
Kohner, Mann & Kailas, S.C.  
Washington Building  
4650 North Port Washington Road  
Milwaukee, WI 53212-1059  
Telephone: (414) 962-5110  
Facsimile: (414) 962-8725  
Email: [asmith@kmksc.com](mailto:asmith@kmksc.com)

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

4. As of 04/19/2016, the Debtor was indebted under the Note and Mortgage by virtue of funds and credits advanced to, or on behalf of, the Debtor; as follows:

	<b>Total Debt</b>
Principal Balance	\$70,512.85
Interest	\$14,013.09
Late charges	\$0.00
Costs (attorney's fees, other costs)	\$0.00
Advances (property taxes, insurance)	\$14,273.70
Less suspense account or partial balance paid	(\$1,109.79)
<b>TOTAL</b>	<b>\$97,689.85</b>

5. Said debt is secured by a parcel of real estate and improvements, as evidenced by the loan and security documents attached hereto as Exhibits A-C. The real estate and improvements described in the loan and security documents, commonly known as 636 Cedar Street, Neenah, WI 54956 are hereinafter referred to as the "Collateral."

6. Debtor executed a promissory note secured by a mortgage or deed of trust. The promissory note is either made payable to Creditor or has been duly indorsed. Creditor, directly or through an agent, has possession of the promissory note. Creditor is the original mortgagee or beneficiary or the assignee of the mortgage or deed of trust.

7. The loan Note is in default. As of 04/19/2016, Debtor has not made the post-petition payment due on 05/01/2014, and all post-petition payments due since then.

8. The estimated fair market value of the property per the Winnebago County Treasurer's office in 2015 is \$138,400.00, less a forced sale discount of 20%, leaves an estimated value at foreclosure sale of \$110,720.00. The estimated fair market value in 2016 is not yet available.

9. Per Schedule D filed by Debtor, the mortgage of Associated Bank in the amount of \$20,201.00, added to the indebtedness of the mortgage herein, exceeds the estimated value of the Collateral.

10. The Debtor has no equity in the Collateral and the Collateral is not necessary for an effective reorganization of the Debtor or his estate.

11. Creditor is entitled to adequate protection of the mortgage and lien in and against the Collateral. Neither the Debtor nor the Chapter 13 Trustee has offered to and neither will be able to adequately protect said mortgage interest and lien in the Collateral.

12. Creditor is entitled to an order terminating the stay of proceedings under 11 U.S.C. § 362, so as to allow the enforcement against the Collateral of the loan Note and real estate mortgage dated 01/27/2003, recorded on 02/28/2003, in the Office of the Register of Deeds for Winnebago County, as Document No. 1233167, in accordance with the terms of the above-mentioned loan and security documents, and applicable state law, including but not limited to the foreclosure and sale of the Collateral, and the application of the net sale proceeds of said Collateral to the indebtedness owed by Debtor.

13. Creditor requests that the Court waive the 14-day stay regarding orders granting a motion for relief from automatic stay, as referenced in Federal Rule of Bankruptcy Procedure 4001(a)(3).

14. Creditor requests that any claim filed by or on behalf of Creditor be deemed withdrawn.

15. Our firm is a debt collector. This is an attempt to collect a debt, and any information obtained will be used for that purpose. **See attached Notice.**

WHEREFORE, Creditor requests that the Court enter an Order terminating the stay of proceedings under 11 U.S.C. § 362, so as to allow Creditor to enforce rights, interests, liens and claims in and against the Collateral, subject to the real estate mortgage dated 01/27/2003, recorded on 02/28/2003, in the Office of the Register of Deeds for Winnebago County, as Document No. 1233167, in accordance with the terms of the above-mentioned loan and security documents, and applicable state law, including but not limited to the foreclosure and sale of the Collateral and the application of the net sale proceeds of the Collateral to the indebtedness owed by the Debtor; that any Order entered pursuant to this motion be effective immediately upon its entry; that any claim filed by or on behalf of Creditor be deemed withdrawn; and such further relief as is just and equitable.

Dated this 2<sup>nd</sup> day of June, 2016.

KMK File: 10005717

KOHNER, MANN & KAILAS, S.C.  
Attorneys for Creditor

By: /s/ Amy J. Smith  
Amy J. Smith  
Attorney No. 1095174

Post Office Address:  
Washington Building  
4650 North Port Washington Road  
Milwaukee, WI 53212-1059  
Telephone: (414) 962-5110  
Facsimile: (414) 962-8725

CERTIFICATE OF NO INTENT TO FILE A BRIEF

Amy J. Smith, one of the attorneys for Creditor, states that Creditor does not intend to file a brief with this Motion. Creditor, however, reserves the right to file a brief should a party in interest object to this Motion or file a brief in opposition to this motion.

/s/ Amy J. Smith  
Amy J. Smith

NOTICE REQUIRED BY THE FAIR DEBT  
COLLECTION PRACTICES ACT (the Act)  
15 U.S.C. Section 1692 As Amended

1. Kohner, Mann & Kailas, S.C. is a debt collector and the attached Motion and this Notice are an attempt to collect a debt. Any information you provide to Kohner, Mann & Kailas, S.C. will be used for that purpose.
2. This Notice pertains to your dealings with Kohner, Mann & Kailas, S.C., as a debt collector. It does not affect your dealings with the court, and in particular it does not change the time at which you must respond to the Motion. The information in this Notice also does not affect my firm's relations with the court. As lawyers, Kohner, Mann & Kailas, S.C. may file papers in the court according to the court's rules and the judge's instructions.
3. The amount of the debt is stated in the Motion attached hereto. Because of interest, late charges, attorneys' fees and other charges, the total amount of the debt may vary from day-to-day, and may become greater than the amount stated in the Motion. Hence, if you arrange to pay the amount shown in the Motion, an adjustment may be necessary after we receive the payment check, in which event we will inform you before depositing the payment check. For further information write our firm at the address set forth below or call our firm at (414) 962-5110.
4. The creditor as named in the attached Motion is the creditor to whom the debt is owed.
5. The debt described in the Motion attached hereto will be assumed to be valid by Kohner, Mann & Kailas, S.C., unless you, within 30 days after the receipt of this Notice, dispute the validity of the debt or some portion thereof.
6. If you notify Kohner, Mann & Kailas, S.C. in writing within 30 days of the receipt of this Notice that the debt or any portion thereof is disputed, Kohner, Mann & Kailas, S.C. will obtain a verification of the debt and a copy of the verification will be mailed to you by Kohner, Mann & Kailas, S.C.
7. If the creditor as named in the attached Motion is not the original creditor, and if you make a written request to Kohner, Mann & Kailas, S.C. within the 30 days from the receipt of this Notice, the name and address of the original creditor will be mailed to you by Kohner, Mann & Kailas, S.C.
8. The law does not require us to wait until the end of the thirty (30) day period before proceeding before the court. If, however, you request proof of the debt or the name and address of the original creditor within the thirty (30) day period that begins with your receipt of this Notice, the law requires us to suspend our efforts (through litigation or otherwise) to collect the debt until we mail the requested information to you.
9. Written requests should be addressed to Kohner, Mann & Kailas, S.C., 4650 North Port Washington Road, Milwaukee, Wisconsin 53212-1059.

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

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In Re: CHRISTOPHER LEE WENZEL  
Debtor.

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CHAPTER 13

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**CERTIFICATE OF SERVICE**

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STATE OF WISCONSIN        )  
                              ) SS  
COUNTY OF MILWAUKEE    )

I, the undersigned, hereby certify that on 06/02/2016, I caused a true copy of the foregoing **Notice of Motion and Motion of U.S. Bank National Association for Relief from Automatic Stay**, to be served upon the following parties by Notice of Electronic Filing:

Rebecca R. Garcia, Chapter 13 Trustee  
Trevor J. Pedersen, Debtor's Attorney  
Office of the U.S. Trustee

I also caused to be manually served a true copy of the documents described above in a properly first-class, postpaid envelope bearing sender's name and return address, and addressed and mailed to:

Debtor  
Christopher Lee Wenzel  
636 Cedar Street  
Neenah, Wisconsin 54956

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/s/ Amy J. Smith  
Amy J. Smith

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Subscribed and sworn to before me  
This 2<sup>nd</sup> day of June, 2016.

/s/ Audrey Harris

Notary Public, Milwaukee County, WI  
My commission expires: 01/13/2019